

REMARKS

Reconsideration of the pending application is respectfully requested on the basis of the following particulars:

1. Rejections under 35 U.S.C. §103(a)

With respect to the rejection of claims 1, 2, 4-7 and 10 under 35 U.S.C. §103(a) as being unpatentable over previously applied Nichols (US 3,088,466) in view of previously applied Jones (US 4,278,081) and newly applied Toy (US 3,511,243), Applicant respectfully traverses the rejection at least for the reason that Nichols, Jones and Toy, combined or separately, fail to teach, disclose, or suggest all of the limitation recited in the rejected claims.

Applicant respectfully submits that each of Nichols, Jones and Toy relates to devices inserted into a trachea through an incision of a neck. In contrast, the presently claimed invention provides a device for inserting into a pharynx from the mouth without an incision of the neck.

Moreover, the devices of Nichols, Jones and Toy guide air into the trachea. In contrast, the presently claimed invention guides a surgical instrument into a digestive organ.

Applicant respectfully asserts that the devices of Nichols, Jones and Toy may be crushed or deformed as long as air passes through the devices. In contrast, the device of the presently claimed invention is configured to guide a surgical instrument to reach the digestive organ. Hence, the device of the presently claimed invention is not allowed to be crushed or deformed, as it contains the reinforcement member (made of, e.g., a plate spring).

Furthermore, as previously submitted, the device of Nichols has a total of only two tubes and Jones appears to describe only one tube. By contrast, each of claims 1 and 2 recites that a supporting device includes a tubular member, a first guiding member and a second guiding member. That is, the claimed invention has three tubes. A reason for having two guiding members and a tubular member is to gradually expand the pharynx to make it easier to insert the surgical instrument. Furthermore, as previously submitted, by using the device consistent with the invention set forth in claims 1 and 2, it becomes possible to perform NOTES (Natural orifice transluminal endoscopic surgery).

Similar to Nichols and Jones, Toy also fails to teach, disclose or suggest a tubular member, a first guiding member and a second guiding member (i.e., a structure including three tubes), as recited in the pending claims.

Previously submitted arguments directed to Nichols and Jones are still applicable and are incorporated herein by reference.

For at least these reasons, independent claims 1 and 2 are believed to recite a combination of features not described or suggested by Nichols, Jones and Toy. Claims 4-7 and 10 are allowable at least because each of these claims depends from allowable independent claim 1. Also, these dependent recite combinations including additional features not taught or suggested by Nichols Jones or Toy.

2. Conclusion

In view of the above amendments and the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that claims 1-2, 4-7, and 10 be allowed and the application be passed to issue without further delay.

If any issues remain that may be resolved by a telephone or facsimile communication with the Applicants' representative, the Examiner is invited to contact the undersigned at the numbers shown.

Further, while no fees are believed to be due, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-4525.

Respectfully submitted,

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